

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X (ECF)  
BODO PARADY, as Special Administrator of the Estate  
of SABINA PARADI and BODO PARADY and MARY  
MOORE, individually,

Magistrate Judge  
Francis-all purposes

Plaintiffs,

**NOTICE OF MOTION  
WITH EXHIBITS**

MICHAEL R. PHILLIPS,

Defendant,

-----X

PLEASE TAKE NOTICE that upon the annexed affidavit of MICHAEL V. KAPLEN, ESQ., duly sworn to on the 17th day of January, 2008 and the exhibits annexed thereto consisting of:

- A. Amended complaint
- B. Answer to amended complaint
- C. Deposition transcript of defendant MICHAEL PHILLIPS
- D. Signed Statement of MICHAEL PHILLIPS to Police Department, City of New York
- E. Photograph marked as exhibit 1 during the deposition of defendant PHILLIPS.
- F. Photograph marked as exhibit 6 during the deposition of defendant PHILLIPS.
- G. Photograph marked as exhibit 3 during the deposition of defendant PHILLIPS.
- H. Deposition of non party witness, MATTHEW BLANK

I. Deposition of non party witness, MARIA EBERLINE

J. Deposition on non party witness ;

Plaintiffs statement Pursuant to Rule 56 of the Local Rules of the Southern and Eastern Districts of New York and the Memorandum of Law in Support of Plaintiff's Motion for Summary Judgment through their counsel, MICHAEL V. KAPLEN of the law firm, DE CARO & KAPLEN, LLP, the undersigned will move this Court before the Honorable Magistrate Judge James C. Francis, IV, at the Courthouse located at 500 Pearl Street, New York, New York on February 8, 2008 at 9:30 o'clock in the forenoon, or as soon thereafter as counsel can be heard for an Order pursuant to Rule 56 of the Federal Rules of Civil Procedure, granting Summary Judgment in favor of plaintiffs on the issue of negligence and granting an immediate trial on the issue of damages and exemplary damages and for such other and further relief as this Court may deem just, proper and equitable.

Dated: Pleasantville, New York  
January 17, 2008

DE CARO & KAPLEN, LLP

By: S/ Michael V. Kaplen

---

Michael V. Kaplen, Esq.  
A member of the firm  
Attorneys for Plaintiff  
427 Bedford Road  
Pleasantville, NY 10570  
(914) 747 4410  
6132-MVK

To:  
James D. Butler, P.A.  
591 Summit Avenue  
Jersey City, N.J. 07306  
Attorney for defendant Phillips

Richard W. Wedinger, Esq.  
Barry, McTiernan & Wedinger  
1024 Amboy Avenue  
Edison, N.J. 08837  
Personal attorney for defendant Phillips